IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1474 OF 2004

Shri Dharmendra S. Bolur .. Petitioner.

V/s.

The State of Maharashtra. .. Respondent.

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Mr. S.H.Joshi for the Petitioner.
Mr. K.V. Saste, APP for Respondent.

CORAM : A.S. AGUIAR, J.
DATED : 25.08.2004.

PC:-

Heard learned Advocate for the Petitioner and learned APP.

This petition is for quashing the proceedings, pending before the learned J.M.F.C., Kalyan in C.R. No. I 22 of 1997 for the offence under sections 365, 342, 385, and 34 of IPC and section 25(1) of Arms Act. The applicant herein was prosecuted and chargesheeted pursuant to a supplementary statement dated 25.2.1997. It is the contention of the learned Advocate for the petitioner that there is no material against him and that he has not been identified in the identification parade and therefore, there is no case made out against the applicant. However, perusal of the orders of the

learned JMFC dated 9.10.1998 as well as of the Addl. Sessions Judge, Kalyan dated 22.06.2004, discloses that the courts below were satisfied that prima facie, there is material against the petitioner. Reference has been made to the pager message which establishes a direct link between the Accused No.1 -Rajkumar Rai and accused No.2. The pagar was seized from accused No.1 in C.R. No. I-30/1997. However, the learend Advocate for the petitioner has pointed out that he has been discharged in the said C.R No.I- 30/1997. Be that as it may, the fact remains that the applicant has been arraigned in a subsequent chargesheet. This application is filed at a belated stage. Both the lower courts are prima facie satisfied that there is sufficient evidence against the accused, which if unrebutted would result in his conviction. Hence, the petition rejected. It is, however, clarified that the observations made by this court and the lower appellate courts will not in any manner influence the trial court. Petition stands disposed of.

Parties be supplied authenticated copy of this order.

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